

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

*

v.

*

CRIM. NO. JKB-18-0097

HARRY E. RIVERS,

*

Defendant.

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* * * * *

MEMORANDUM AND ORDER

Pending before the Court is Harry Rivers' Motion to Reduce Sentence. (ECF No. 156.) He requests that a reduction of his sentence pursuant to Part A of Amendment 821 to the U.S. Sentencing Guidelines ("Amendment 821"). (*Id.*) The Court will deny the Motion.

Amendment 821, which was given retroactive effect, is a multi-part amendment. Part A limits the criminal history impact of "status points." Specifically, a defendant's status points are decreased by one point if he has seven or more criminal history points, and his status points are eliminated if he has six or fewer criminal history points.

The Court has reviewed the record in this case. The Presentence Report ("PSR") reflects that Mr. Rivers did receive two status points because he committed the relevant offense while on probation. (ECF No. 85 ¶ 41.) He therefore received a criminal history score of eight, which established a criminal history category of IV. (*Id.* ¶ 42.) The PSR reflects that the Guidelines range was 360 months to life. (*Id.* at 85.) However, the Plea Agreement reflects that the Government and Mr. Rivers "agree to recommend a sentence between 8 years' (96 months') and 12 years' (144 months') imprisonment[.]" (ECF No. 80 at 5.) The Court ultimately sentenced Mr. Rivers to 144 months' imprisonment, below the Guidelines range. (ECF No. 100.)

Given these circumstances, Mr. Rivers may not avail himself of Amendment 821. *See, e.g., United States v. McCallum*, Crim. No. 14-476-12 (CS), 2024 WL 3594568, at *2 (S.D.N.Y. July 31, 2024) (“Amendment 821 has little to no effect on my thinking, because the sentence I imposed was not driven by the Guidelines (although I considered them then and consider them now) but rather, primarily, by the nature and circumstances of the offense, the history and characteristics of the Defendant, and the need to promote respect for the law and protect the public from further crimes.”).

Accordingly, it is ORDERED that Mr. Rivers’ Motion (ECF No. 156) is DENIED.

DATED this 28 day of August, 2024.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "James K. Breder", written over a horizontal line.

James K. Breder
United States District Judge